

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

IN RE: SMITH & NEPHEW BIRMINGHAM  
HIP RESURFACING (BHR) HIP IMPLANT  
PRDOUCTS LIABILITY LITIGATION

STARLLA MEIKLE,

Plaintiffs,

vs.

SMITH AND NEPHEW, INC.

Defendant.

MDL No. 2775

Master Docket No. 1:17-md-2775

JUDGE CATHERINE C. BLAKE

**DIRECT-FILED SHORT FORM  
COMPLAINT  
PURSUANT TO CASE MANAGEMENT  
ORDER NO. 5**

Civil Action No.: 1:18-cv-1458

**SHORT FORM COMPLAINT**

1. Plaintiff, Starlla Meikle, states and brings this civil action in MDL No. 2775, entitled *In re: Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation*. Plaintiff is filing this Short Form Complaint pursuant to CMO No. 3, entered by this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff is a resident and citizen of Vancouver, WA and claims damages as set forth below.

3. Federal jurisdiction is proper based on diversity of citizenship.

4. The Federal District in which Plaintiff's initial implant took place: Colorado District Court.

5. The Federal District in which Plaintiff's revision(s) surgeries took place: Oregon District Court.

6. Plaintiff brings this action [*check the applicable designation*]:

☒ On behalf of herself;

~~\_\_\_\_\_ In a representative capacity as the \_\_\_\_\_ of the  
\_\_\_\_\_ having been duly appointed as the \_\_\_\_\_ by the  
\_\_\_\_\_ Court of \_\_\_\_\_. A copy of the Letters of Administration  
for a wrongful death claim is annexed hereto if such letters are required for the  
commencement of such a claim by the Probate, Surrogate or other appropriate court of  
the jurisdiction of the decedent.~~

~~*[Cross out if not applicable.]*~~

### **FACTUAL ALLEGATIONS**

7. On or about June 2, 2008, Plaintiff underwent surgery during which the Smith & Nephew BHR Resurfacing System was implanted into Plaintiff's LEFT hip.

8. Plaintiff's LEFT BHR implant surgery was performed at Vail Valley Medical Center in Vail, CO by Dr. Peter J. Millett.

9. Plaintiff underwent medically-indicated revision of the LEFT BHR hip implant on or about August 14, 2017. [OR: Plaintiff's medical provider(s) have recommended revision but Plaintiff has not been medically cleared to undergo revision surgery: \_\_\_\_\_(checkbox)]

10. Plaintiff's revision surgery was performed at Portland VA Medical Center in Portland, WA by Dr. Kenneth R. Gundle.

11. Plaintiff suffered the following complications, injuries, and/or indications, some or all of which made revision surgery medically necessary: Including, but not limited to, physical injuries, pain, significantly elevated metal levels, metallosis, pseudotumor, swelling, inflammation, lack of mobility, bone loss, hair loss, skin problems, weight loss, and vision change.

12. [IF BILATERAL]: Plaintiff's (LEFT/RIGHT) BHR implant surgery was performed at \_\_\_\_\_ by \_\_\_\_\_.

13. [IF BILATERAL]: On or about \_\_\_\_\_, Plaintiff underwent surgery during which the Smith & Nephew BHR Resurfacing System was implanted into Plaintiff's (LEFT/RIGHT) hip.

14. [IF BILATERAL]: Plaintiff underwent medically-indicated revision of the (LEFT/RIGHT) BHR hip implant on or about \_\_\_\_\_. [OR: Plaintiff's medical provider(s) have recommended revision but Plaintiff has not been medically cleared to undergo revision surgery: \_\_\_\_\_(checkbox)]

15. [IF BILATERAL] Plaintiff's revision surgery was performed by \_\_\_\_\_ at \_\_\_\_\_.

16. Plaintiff adopts the allegations of the Master Amended Consolidated Complaint ("MACC") filed August 11, 2017, and any and all amendments to the MACC.

17. Notwithstanding the foregoing, Plaintiff does not adopt the following paragraphs of the MACC: \_\_\_\_\_.

18. Notwithstanding the foregoing, Plaintiff additionally alleges that: Plaintiff's revision surgery included bone reconstruction and implantation of bone screws. As a result of her revision surgery, plaintiff suffered permanent injuries, including, but not limited to, permanent pain, lack of mobility, lack of range of motion, and weight gain.

**ALLEGATIONS AS TO INJURIES**

19. (a) Plaintiff claims damages as a result of (check all that are applicable):

☒ INJURY TO HERSELF

☐ INJURY TO THE PERSON REPRESENTED

- ☐ WRONGFUL DEATH
- ☐ SURVIVORSHIP ACTION
- ☒ ECONOMIC LOSS

(b) Plaintiff's spouse claims damages as a result of (check all that are applicable):

*[Cross out if not applicable.]*

- ☐ LOSS OF SERVICES
- ☐ LOSS OF CONSORTIUM

20. Defendant, by its actions or inactions, proximately caused the injuries to Plaintiff(s).

**DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

21. The following claims and allegations are asserted by Plaintiff(s) and are herein adopted by reference under the laws of the following state (check all that are applicable):

- ☒ COUNT I (strict products liability: Oregon)
- ☒ COUNT II (negligence: Oregon)
- ☒ COUNT III (strict products liability failure to warn: Oregon)
- ☒ COUNT IV (negligent failure to warn: Oregon)
- ☒ COUNT V (negligent misrepresentation: Oregon)
- ☒ COUNT VI (negligence per se: Oregon)
- ☒ COUNT VII (breach of express warranties: Oregon)
- ☒ COUNT VIII (manufacturing defect: Oregon)
- ☒ COUNT IX (punitive damages: Oregon)

In addition to the above, Plaintiff(s) assert the following additional causes of action under applicable state law:

---

---

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff(s) pray for judgment against Defendant as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement; and
7. All other relief as the Court deems necessary, just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff(s) hereby demand(s) a trial by jury as to all claims in Complaint so triable.

Dated: May 21, 2018

Respectfully submitted,

/s/ Ahmed S. Diab  
AHMED S. DIAB  
GOMEZ TRIAL ATTORNEYS  
John H. Gomez (CA SBN 171485)  
Ahmed S. Diab (CA SBN 262319)  
Jessica S. Williams (CA SBN 314762)  
655 West Broadway, Suite 1700  
San Diego, CA 92101  
Tel: (619) 237-3490  
Fax: (619) 237-3496  
*Attorneys for Plaintiff*